

AMENDED IN SENATE JUNE 29, 2004

AMENDED IN SENATE MAY 26, 2004

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1155**

**Introduced by Assembly Member Liu**

February 21, 2003

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An act to amend ~~Section~~ *Sections 2342.5 and 2850* of, and to add Section 2344 to, the Probate Code, relating to conservators and guardians.

LEGISLATIVE COUNSEL'S DIGEST

AB 1155, as amended, Liu. Conservators and guardians: educational requirements.

Existing law defines private professional conservators and private professional guardians and requires them to file specified information with the courts and to provide a specified declaration to a statewide registry. *Existing law permits a person authorized by nonprofit, private entities to perform conservatorship functions to satisfy certain filing requirements a specified way.* Existing law prohibits a court from appointing these guardians and conservators unless they are registered. A guardian or conservator who signs a declaration, as described above, that asserts the truth of any material matter which he or she knows to be false is guilty of a misdemeanor. *Existing law establishes the Judicial Council and requires it to adopt rules relating to the administration of courts.*

This bill would require *the Judicial Council, on or before July 1, 2005, to adopt a rule of court that specifies the qualifications of conservators and guardians and private professional conservators and guardians, including certain educational requirements. The bill would require private professional conservators and private professional guardians to complete 15 hours of education each year in classes related to their duties. The bill would require these conservators and guardians to certify their compliance with these educational requirements when registering with the Statewide Registry and to retain all materials necessary to prove compliance, and would prohibit these guardians and conservators from registering with the Statewide Registry if they fail to fulfill these educational requirements. The bill would specify that a private professional conservator authorized by a nonprofit, private entity to perform conservatorship functions, as described above, is required to fulfill the educational requirements established by the Judicial Council for these conservators.*

By changing the definition of a crime, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. *On or before July 1, 2005, the Judicial Council*
- 2 *shall adopt a rule of court that shall do all of the following:*
- 3 *(a) Specifies the qualifications of a conservator or guardian*
- 4 *appointed by a court.*
- 5 *(b) Specifies the qualifications of a private professional*
- 6 *conservator or private professional guardian.*
- 7 *(c) Requires a private professional conservator or private*
- 8 *professional guardian to complete 15 hours of education each year*
- 9 *in classes related to the duties of a conservator or guardian.*
- 10 *(d) Specifies the particular subject matter that may be included*
- 11 *in the 15 hours of education required each year.*

1 *(e) Requires a private professional conservator or private*  
2 *professional guardian to certify to the court the completion of the*  
3 *yearly 15 hours of education.*

4 *SEC. 2. Section 2342.5 of the Probate Code is amended to*  
5 *read:*

6 2342.5. (a) Notwithstanding Section 2342, all natural  
7 persons who are authorized by a private entity, which is exempt  
8 from federal income taxation pursuant to Section 501(C)(3) of the  
9 Internal Revenue Code or is exempt from state taxes pursuant to  
10 Sections 23701 and 23701d of the Revenue and Taxation Code, to  
11 perform the functions of a conservator may elect to annually file  
12 a statement required by subdivision (a) of Section 2342 only with  
13 the clerk of the court of the county in which the private entity has  
14 its principal place of business if all of the following requirements  
15 are met:

16 (1) The private entity provides conservatorship services to 10  
17 or more conservatees with assets of less than twenty thousand  
18 dollars (\$20,000) each.

19 (2) At least 40 percent of the total number of conservatees  
20 served by the private entity in the state have assets of less than  
21 twenty thousand dollars (\$20,000) each.

22 (3) The total annual fees received by the private entity for  
23 providing conservatorship services do not exceed 5 percent of the  
24 total assets of all the conservatees served by the private entity.

25 Only the clerk of the court and superior court of the county in  
26 which this statement is filed shall be required to comply with the  
27 background check requirements of Section 2342 for this  
28 statement.

29 (b) Upon filing of a petition for appointment, a private  
30 professional conservator described in subdivision (a) shall state  
31 that he or she is a private professional conservator and the name  
32 of the county in which the information required by Section 2342  
33 is on file.

34 *(c) A private professional conservator described in subdivision*  
35 *(a) shall meet the educational requirements generally established*  
36 *by the Judicial Council for private professional conservators.*

37 *SEC. 3. Section 2344 is added to the Probate Code, to read:*

38 2344. (a) A private professional conservator or a private  
39 professional guardian shall ~~complete 15 hours of education each~~  
40 ~~year in classes related to their his or her as conservator or guardian.~~

1 These classes may include, but are not limited to, classes in ethics,  
2 financial planning, gerontology, health care, probate, real estate,  
3 and tax law.

4 (b) A private professional conservator or a private professional  
5 guardian shall certify his or her compliance with the educational  
6 requirements of this section when registering with the Statewide  
7 Registry, pursuant to Section 2850, and shall retain all materials  
8 necessary to prove his or her compliance.

9 (c) A private professional conservator or a private professional  
10 guardian that fails to fulfill the educational requirements of this  
11 section may not register with the Statewide Registry.

12 *SEC. 2. meet the requirements for education and experience*  
13 *established by the Judicial Council prior to appointment as*  
14 *conservator or guardian.*

15 (b) A private professional conservator or private professional  
16 guardian that fails to fulfill the educational requirements  
17 established by the Judicial Council for appointment as a private  
18 professional conservator or a private professional guardian may  
19 not register with the Statewide Registry.

20 SEC. 4. Section 2850 of the Probate Code is amended to read:

21 2850. (a) The Department of Justice shall maintain a  
22 Statewide Registry and shall make all information in the registry  
23 available to the court for any purpose, but shall otherwise be kept  
24 confidential. On request, the registry may disclose to the public  
25 whether an individual is or is not registered with the Statewide  
26 Registry. Except as otherwise provided in Section 2854, all  
27 persons who wish to serve as a conservator, guardian, or trustee or  
28 who are currently serving as a conservator, guardian, or trustee  
29 shall register with the Statewide Registry and shall reregister every  
30 three years thereafter. "Registration" means the filing of a  
31 declaration pursuant to subdivision (b).

32 (b) All conservators, guardians, and trustees required to file  
33 information with the clerk of the court pursuant to Section 2340  
34 or required to register pursuant to this chapter shall file a signed  
35 declaration with the Statewide Registry. A person who signs a  
36 declaration pursuant to this subdivision asserting the truth of any  
37 material matter which he or she knows to be false is guilty of a  
38 misdemeanor punishable by imprisonment for up to one year in a  
39 county jail, or a fine of not more than two thousand dollars

1 (\$2,000), or both that fine and imprisonment. The declaration shall  
2 contain the following information:

3 (1) Full name.

4 (2) Professional name, if different from (1).

5 (3) Business address.

6 (4) Business telephone number or numbers.

7 (5) His or her educational background and professional  
8 experience, including verification of any college or graduate  
9 degree claimed.

10 (6) The names of the conservator's current conservatees, the  
11 guardian's current wards, or the current trusts administered by the  
12 trustee.

13 (7) The aggregate dollar value of all assets currently under the  
14 conservator's, guardian's, or trustee's supervision.

15 (8) Whether he or she has ever been removed for cause or  
16 resigned as conservator, guardian, or trustee in a specific case, the  
17 circumstances of that removal or resignation, and the case names,  
18 court locations, and case numbers.

19 (9) In the case of a private professional conservator or a private  
20 professional guardian, compliance with the educational  
21 requirements of ~~Section 2344~~ *established by the Judicial Council*  
22 *for private professional conservators and private professional*  
23 *guardians.*

24 (c) On request, the registry may disclose to a member of the  
25 public the educational background and professional experience of  
26 a conservator, guardian, or trustee registered with the Statewide  
27 Registry.

28 (d) The Department of Justice may charge a reasonable fee to  
29 persons registering and reregistering with the Statewide Registry  
30 for the cost of that registration. The Department of Justice shall  
31 issue a certificate of registration to each registrant.

32 (e) Each court clerk shall forward a copy of any complaint filed  
33 with that court, and found to be meritorious by that court, against  
34 a conservator, guardian, or trustee in his or her capacity as a  
35 conservator, guardian, or trustee for inclusion in the Statewide  
36 Registry. The Statewide Registry shall place any copies of those  
37 complaints in the file of that conservator, guardian, or trustee. No  
38 anonymous complaint may be considered pursuant to this section.

39 SEC. 3. No reimbursement is required by this act pursuant to  
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school  
2 district will be incurred because this act creates a new crime or  
3 infraction, eliminates a crime or infraction, or changes the penalty  
4 for a crime or infraction, within the meaning of Section 17556 of  
5 the Government Code, or changes the definition of a crime within  
6 the meaning of Section 6 of Article XIII B of the California  
7 Constitution.

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